

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

TWO MEN AND A)
TRUCK/INTERNATIONAL, INC.,)
Plaintiff,) Civil Action No. 2:14-cv-00248-RAJ-LRL
v.)
A MOVER, INC. (formerly TWO MEN & A)
TRUCK, INC.),)
Defendant.)

PLAINTIFF'S MOTION TO FIX ATTORNEYS' FEES PREVIOUSLY AWARDED

Pursuant to the Court's October 14, 2014 Order (ECF No. 27), Plaintiff Two Men and a Truck/International, Inc. ("Plaintiff") submits this motion in support of its claim to an award of its reasonable attorneys' fees and costs incurred in bringing its show cause action.

The grounds for the reasonableness of Plaintiff's claim for attorneys' fees under this Motion are set forth in the accompanying Memorandum in Support and the Declaration of J. David Mayberry. As set forth therein, Plaintiff respectfully requests that this Court fix the attorneys' fees and costs previously awarded to Plaintiff pursuant to the October 14 Order in an amount equal to \$34,516.20.

This the 24th day of October, 2014.

Respectfully submitted,

/s/

J. David Mayberry
Virginia Bar No. 46150
KILPATRICK TOWNSEND & STOCKTON LLP
607 14th Street NW, Suite 900
Washington, DC 20005-2018
Tel: (202) 508-5870
E-mail: DMayberry@KilpatrickTownsend.com

James W. Faris Jr. (admitted *pro hac vice*)
Georgia Bar No. 452293
KILPATRICK TOWNSEND & STOCKTON LLP
1100 Peachtree Street NE, Suite 2800
Atlanta, GA 30309-4528
Tel: (404) 815-6134
E-mail: JFaris@KilpatrickTownsend.com

*Attorneys for Plaintiff Two Men and a Truck/International,
Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on October 24, 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/

J. David Mayberry
*Attorney for Plaintiff Two Men and a Truck/International,
Inc.*

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Plaintiff,) Civil Action No. 2:14-cv-00248-RAJ-LRL
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**MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION TO
FIX ATTORNEYS' FEES PREVIOUSLY AWARDED**

Plaintiff Two Men and a Truck/International, Inc. ("Plaintiff") respectfully submits this Memorandum in Support of Plaintiff's Motion to Fix Attorneys' Fees Previously Awarded.

INTRODUCTION AND BACKGROUND

On May 15, 2014, Plaintiff moved (ECF No. 11) for an Order compelling Defendant A Mover, Inc., formerly Two Men & A Truck, Inc. ("Defendant"), to show cause why it should not be held in contempt for violating this Court's April 3, 2014 Final Judgment and Permanent Injunction on Consent (ECF No. 9). On September 5, 2014, the Court ordered Defendant to show cause why it should not be held in contempt of the April 3 Order. (ECF No. 17.) The Court held a Show Cause Hearing on October 2, 2014, at which an appearance was made by Defendant's President, Robert David Moore, but no appearance was made by counsel for Defendant. (ECF No. 21.) At the October 2 hearing, the Court found Defendant in civil contempt and stated that ruling on the record. (*Id.*) The Court followed its October 2 bench ruling with an Order entered October 14, 2014 finding Defendant in civil contempt. (ECF No. 25.)

Following a status conference before the Court on October 14, 2014, the Court found that

Defendant purged the civil contempt as of October 6, 2014. (ECF No. 26.) The Court then entered an Order, signed October 14, 2014, that, *inter alia*, ordered Plaintiff to submit its motion to fix attorneys' fees and costs to the Court within ten days. (ECF No. 27.)

Pursuant to this Court's most recent Order, Plaintiff respectfully requests that the Court award it reasonable attorneys' fees and costs in the amount of \$34,516.20.

ARGUMENT AND CITATION TO AUTHORITY

In order to determine the amount of reasonable attorneys' fees, courts in the Fourth Circuit calculate the "lodestar" amount by multiplying the reasonable number of hours spent by a reasonable rate. *Brodziak v. Runyon*, 145 F.3d 194, 196 (4th Cir. 1998). "Absent circumstances warranting adjustment, this 'lodestar' represents the proper total fee award." *Wileman v. Frank*, 780 F. Supp. 1063, 1064 (D. Md. 1991). Such an amount is appropriate because, when "a plaintiff has obtained excellent results," it "should recover a fully compensatory fee," which normally will "encompass all hours reasonably expended on the litigation." *Hensley v. Eckerhart*, 461 U.S. 424, 435 (1983).

The Declaration of J. David Mayberry, attached hereto, documents the number of hours expended by Plaintiff's counsel in pursuing the show cause action against Defendant, it attests to the reasonableness of the time expended by Plaintiff's counsel—especially in light of the six months between the Court's April 3, 2014 Order and Defendant's October 6, 2014 compliance with that order—and it attests to the reasonableness of their hourly rates. Under *Hensley* and applicable Fourth Circuit precedent, the amount of the fee award should be equal to the reasonable fees documented in the Mayberry Declaration.

CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court fix the attorneys' fees and costs previously awarded to Plaintiff pursuant to the October 14, 2014 Order in an amount equal to \$34,516.20.

This the 24 day of October, 2014.

Respectfully submitted,

/s/

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KILPATRICK TOWNSEND & STOCKTON LLP
607 14th Street NW, Suite 900
Washington, DC 20005-2018
Tel: (202) 508-5870
E-mail: DMayberry@KilpatrickTownsend.com

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/s/

J. David Mayberry

Attorney for Plaintiff Two Men and a Truck/International, Inc.